without parole after Petitioner had served enough time in prison to become eligible for parole on Respondent's complaint that Petitioner had not paid the taxes he proposed to assess (See record of Parole Board in Criminal Case No. 72194.)

Respondent then, to force this settlement, levied jeopardy assessments, attachments, tax liens, and seized and took all of Petitioner's property and money, leaving Petitioner without any credit or money with which to pay counsel for assistance in defending this action.

Respondent seized and took all of Petitioner's money and refused to account for it or tell Petitioner how he had applied the money and the settlement was forced and the case closed by Respondent under his false assertion that "complete data showing how the liability was arrived at was in the hands of the counsel" (Pet. 49a.) and this when Respondent well knew that no such data had been made up, or was available, or was in the hands of the counsel (R. 52-53.) (Pet. 56a, 57a, 61a.) and (R. 34, 36, 37.)

Respondent knew such contention was false when he made it and it was made to force the stipulation and decision complained of.

Respondent repeatedly refused to give Petitioner any accounting as to how he had applied the money he had seized and taken to force the stipulation until after Petitioner had appealed to the President of the United States, and then Respondent admitted that he had made mistakes in the application of the money in *each and every one of the years*, and he then refunded a part of the money while the case was pending in the Court below (See Respondent's brief in opposition to the rehearing in the Court below, pages 12-13.) and

(Petitioner's reply brief to the petition for rehearing in the Court below, appendix 17, 19, 20.)

The pressure Respondent applied to force the settlement was described by his witness Luce as "terrific" (R. 51.)

Respondent then set up a dozen different sums as the amounts he claimed due and to which he proposed to apply the money he had attached and seized (Petitioner's brief in the Court below, pages 38-39.)

Respondent set up each of those sums and used them forcefully to force Petitioner's counsel to sign the stipulation for the settlement complained of so that he could "eliminate this case from our inventory prior to December 31" (R. 35.)

Respondent assessed these taxes and penalties as he testified in the Tax Court without making any analysis, count, tabulation or list. He described the method he used as "We take the total sum and apply in what in our judgment is a reasonable figure to apply" (R. 35.) (Pet. 56a.) and thus he forced the signing of the stipulation and the decision complained of on November 16 as he testified was desired by the Commissioner (R. 25.)

Petitioners contend that no tax collector should be allowed to assess and force the payment of taxes and penalties as described by Respondent in his testimony quoted above. That the fine, imprisonment, assessments, jeopardy assessments, liens, attachments and seizure of the property and money were just successive and cumulative steps taken by Respondent to force the signing of the stipulation for the forced and "arbitrary decision". (R. 52-53.) and that the 26 items com-

plained of on pages 8-10 of Petitioner's Reply brief in the Court below were all parts of Respondent's considered plan to force the stipulation "prior to December 31" (R. 25.)

The record shows (R. 52-53.) that Respondent's argument and conclusion in his brief in opposition to this petition are based on his erroneous quotations from his own brief which he filed in the Court below and are not based on a correct quotation of the record and testimony before the Tax Court. They are misleading and without merit.

Respondent's assessment of taxes and penalties of $272,521.00 which he testified he assessed without making any audit, tabulation, calculation, count, list, analysis or estimate of the number of items involved is fantastic.

The fine, imprisonment, dozen different assessments, liens, attachments, seizure of the property and money is incredible.

Respondent's testimony that he made mistakes in the application of the seized money in each and every one of the years is ridiculous.

Respondent's statement that "complete data showing how your liability was arrived at is in possesion of your counsel of record " is false (Pet. 49a.) and proved false by the testimony of two of his own witnesses, Butrum and Luce (R. 34, 36, 37, 52, 53.) (Pet. 50a, 52a.)

Unless this Court reverses this decision Respondent can, as he did in this case, force any taxpayer to sign stipulation for the assessment of taxes and penalties on this basis. And without making up any list of the

items Respondent in this case took over the counsel as his witness, and had him testify against his client before the Tax Court (R. 41.) and (Respondent's brief in opposition to this petition, page 3.)

The counsd testified that he consented to testify as Respondent's witness against his client in support of this "arbitrary decision" assessing these taxes and penalties which were based on a "figure" which neither he nor Respondent understood or agreed upon, and which Respondent's testimony repeatedly shows was not based on any list, tabulation, computation, inquiry or any attenpt to analyze the items on which it was based.

Counsel testified that "I didn't have any list of them; I just had the figure".

Respondent's testimony shows that the "figure" set up by Respondent in the stipulation and in the Tax Court decision was never a definite "figure," and was never agreed upon, but was just whatever "figure" Respondent chose to put down, and he put down a dozen different figures; among them as the amount he testified was agreed upon:

$17,965.78 on page 13 of the Record (R. 13.)
$74,853.81 on page 14 of Respondent's brief in opposition to the rehearing in the Court below.
$107,995.00 on page 3 of Respondent's brief in opposition to this petition.
$138,609.93 on page 14 of Respondent's brief in opposition to the rehearing in the Court below.

Those are only four of the dozen different figures set down by Respondent to confuse the counsel and force this settlement (Pet. brief in the Court below, pages 38-39) and they show that Respondent has

just set down whatever figures he thought would force a settlement. It made no difference to him what figures he put down as none of his figures were based on any audit, tabulation, calculation, analysis, count, inquiry or list (Pet. 20a-64a.) and Respondent refused to give Petitioner or the counsel any information or list showing how he arrived at any of those estimates (R. 34, 36, 37.) (Pet. 50a, 51a, 56a, 57a, 61a.)

Petitioners have pointed to Respondents own testimony in the record to prove that:

1. Petitioners reported all of their gross income in the income tax returns they filed. (Pet. 31a.)
2. Petitioners reported all expenses clearly and in minute detail (Pet. 21a-31a.)
3. Respondent testified that he found 95 per cent of all expenses "were allowable and they were allowed" (Pet. 63a.)
4. Respondent made no audit, tabulation, calculation, count, list, inquiry, or even any attempt to analyze the items (Pet. 5-8.)
5. Respondent forced this "arbitrary" settlement on counsel without any audit, tabulation or list, on his stated basis of "We take the total sum and apply in what in our judgment is a reasonable figure to apply," and did this fourteen years after the returns were filed (R. 35.) (Pet. 56a.)
6. Respondent forced the settlement by fining and imprisoning Petitioner and placing liens and attachments and seizing and taking all of Petitioner's property and money and leaving him with no property or credit or money with which to pay his counsel any fee for further contesting the case (Respondent's brief in opposition to this petition, page 4.)

7. Respondent testified that he never made up any list of the items on which he would have had to base any assessment (R. 53.)

8. Respondent admitted that he made mistakes in the application of the money he seized in each and every one of the years (Respondent's brief in opposition to petition for rehearing in the Court below, page 12.)

9. Respondent has already returned some of the money he seized and took in this case which shows a laxness which this Court should not countenance, especially when the Respondent was applying "terrific pressure" (R. 51.) to force the settlement. (Petitioner's reply brief to petition for rehearing in the Court below, pages 19-20.)

10. Respondent's agent who prosecuted this case for over seven years stated that he began the case by working late in the night to "supplement the family income" (Pet. 20a.) and he testified falsely (Pet. 35a-41a.) and the Acting Assistant Commissioner who closed the case also gave false statements about the facts. (Pet. 49a.)

All of those things were done to force the signing of the stipulation for the decision in this case. Proof of them is all in the testimony of Respondent in the record. Petitioners ask this Court to please review this case and issue the proper order disapproving this method of assessing taxes and penalties.

ARGUMENT

The record in this case is made up entirely of Respondent's quoted testimony which shows that Respondent has not, and he cannot, legally assess any taxes and penalties as he has assessed these taxes and penalties. Respondent has admittedly made no audit,

tabulation, calculaion, list, count or even any estimate of the number of tems he claimed to have disallowed for the assessmen of these taxes and penalties. He has just set up a dozen different sums, based on his "assumptions", wthout inquiry, and he has used those sums as the basis of his assessments, attachments, liens and the seizure of all of Petitioner's property and money. Respondnt has secured a fine and imprisonment of the Petitoner on the basis of his "assuming" that Petitioner had some net income (Pet. 45a-46a.) and on the basis of that "assumption" he opposed the release of Petitioner from prison after Petitioner had served enough tine in prison to become eligible for parole on the ground that Petitioner had not paid the taxes he might propose to assess.

Respondent then applied "terrific pressure" for the settlement of thecase by the signing of a stipulation by Petitioner's counsel who was appearing in the case only on Respondnt's approval as Respondent has a rule that no counsel can represent any taxpayer without his approval Thus any counsel, if he hopes to continue to reprsent taxpayers before the Bureau or the Tax Court must submit to the wishes of the agents of Respondent and serve them before the client.

In this case the Respondent had the counsel sign the stipulation and hen took over the counsel and had him testify as his witness against Petitioner before the Tax Court. (R. 41.)

Respondent testified that he found from the books and records and returns that Petitioner had reported all of his gross income in the income tax returns which he filed. He alsofound that all expenses were reported in the greatest detail. The returns were complete and complied with al of the requirements of the Internal Revenue Code.

Respondent also testified that he found that 95 per cent of the expenses were allowable and they were allowed (R. 14.) (Pet. 54a.) and the books and records kept and delivered to him showed that the other 5 per cent of the expenses were recorded in so much detail that he did not audit, tabulate, calculate, list or count them. He just estimated the number of items he proposed to disallow for the assessment of these taxes and penalties to be somewhere between 3,000 and 30,000 items, "and realizing the enormity of attempting to analyze some 20 or 30 thousand individual items I told them that we would adopt the theory of the Cohen rule and split it down the middle" (R. 27.) "And I said "Split them down the middle". Let us get rid of the case" (R. 39.)

Petitioners argue that this is not the proper way to assess any taxpayer's taxes and that this decision based on this method of assessment does not comply with the requirements of the Internal Revenue Code, or any code of justice.

Petitioners argue that no taxes and penalties were properly assessed in this case and ask this Court to so rule.

CONCLUSION

Since Respondent's testimony shows that Petitioner reported all of his gross income and all of his expenses and that 95 per cent of those expenses were found to be allowable and were allowed and that the other 5 per cent were never tabulated, listed, counted or analyzed. And since this has been repeatedly testified to by Respondent there is no basis for any legal assessment of any taxes and the settlement forced upon the counsel in this case should be set aside and dismissed.

The Supreme Court of the United States is the only court which can protect Petitioner and other taxpayers

from the arbitrary and bureaucratic actions of the Bureau of Internal Revenue.

The Supreme Court should consider this case as it is the only place where a person's life, liberty and property can be protected against such arbitrary and capricious actions as those here set out in Respondent's own testimony. The lawyers in the Solicitor's Office have taken a narrow, technical and legalistic position in their brief in opposition. Perhaps they felt they could do nothing else as the injustice of the treatment of Petitioner by the Bureau of Internal Revenue cannot be supported in good conscience by any reasonable men.

All citizens are entitled to expect justice and fair dealing from the Bureau of Internal Revenue and if the Bureau refuses to be fair or just as shown by the testimony in this case then the Courts, and especially the Supreme Court of the United States should give justice.

This case should be heard in open court before the Justices of the Supreme Court and thus give notice to the world that in the eyes of the Supreme Court a citizen stands in the same position as this Bureau of the government and that a citizen can have the ear of the Supreme Court when he shows that an injustice has been perpetrated, even though that injustice was done by agents of the government itself.

Respectfully submitted,

ROBERT E. FUNKHOUSER
Petitioner
5315 Colorado Avenue, N.W.
Washington, D. C.